



## **SYDNEY CENTRAL CITY PLANNING PANEL**

### **COUNCIL ASSESSMENT REPORT**

<b>Panel Reference</b>	2017SWC147
<b>DA Number</b>	DA/1009/2017
<b>LGA</b>	City of Parramatta Council
<b>Proposed Development</b>	Alterations and additions to two (2) existing boarding houses to create four (4) day houses. The proposal is identified as Integrated Development as Bushfire Safety Authority is required pursuant to Section 100B of the Rural Fires Act 1997. The application is to be determined by the Sydney Central City Planning Panel (SCCPP).
<b>Street Address</b>	The Kings School, 87-129 Pennant Hills Road, North Parramatta (Lot 1 DP 59169, Lot A DP 329288, Lot B DP 329288, Lot A DP 321595, Lot 2 DP 235857, Lot 1 DP 64765, Lot 1 DP 57491, Lot 1 DP 581960, Lot 10 DP 812772)
<b>Applicant/Owner</b>	Mr D Berents; Council of the Kings School
<b>Date of DA lodgement</b>	8 December 2017
<b>Number of Submissions</b>	Nil
<b>Recommendation</b>	Approval subject to conditions
<b>Regional Development Criteria (Schedule 4A of the EP&amp;A Act)</b>	Private Infrastructure and Community Facilities Over \$5 Million Cost of Construction proposed = \$6,040,844
<b>List of all relevant 4.15(1)(a) matters</b>	<ul style="list-style-type: none"><li>• Environmental Planning and Assessment Act and Regulations</li><li>• State Environmental Planning Policy (Sydney Harbour Catchment) 2005</li><li>• The Hills Local Environmental Plan 2012</li><li>• The Hills Development Control Plan 2012</li></ul>
<b>Report prepared by</b>	Sohini Sen, Senior Development Assessment Officer
<b>Report date</b>	29 March 2018

#### **Summary of s4.15 matters**

Have all recommendations in relation to relevant s4.15 matters been summarised in the Executive Summary of the assessment report?

**Yes**

#### **Legislative clauses requiring consent authority satisfaction**

Have relevant clauses in all applicable environmental planning instruments where the consent authority must be satisfied about a particular matter been listed, and relevant recommendations summarized, in the Executive Summary of the assessment report?  
*e.g. Clause 7 of SEPP 55 - Remediation of Land, Clause 4.6(4) of the relevant LEP*

**Yes**

#### **Clause 4.6 Exceptions to development standards**

If a written request for a contravention to a development standard (clause 4.6 of the LEP) has been received, has it been attached to the assessment report?

**Yes**

## Special Infrastructure Contributions

Does the DA require Special Infrastructure Contributions conditions (S94EF)?

**Not  
Applicable**

*Note: Certain DAs in the Western Sydney Growth Areas Special Contributions Area may require specific Special Infrastructure Contributions (SIC) conditions*

### Conditions

Have draft conditions been provided to the applicant for comment?

**Yes**

*Note: in order to reduce delays in determinations, the Panel prefer that draft conditions, notwithstanding Council's recommendation, be provided to the applicant to enable any comments to be considered as part of the assessment report*

## 1. Executive summary

This report considers a proposal for alterations and additions to two (2) existing boarding houses to create four (4) day houses. The proposal will involve tree removal, partial demolition of the existing buildings and will maintain the primary existing footprint. The proposal seeks a variation of 1.1% to the maximum building height control

The proposal constitutes "Integrated Development" under Section 91 of the Environmental Planning and Assessment Act 1979 as the General Terms of Approval are required under the Rural Fires Act 1997. The highest Bushfire Attack Level to the proposed works to the Macarthur and Hake Harris House buildings was determined to be BAL 29.

The proposed alterations and additions to Hake Harris and Macarthur House will be able to accommodate for a total of 150 students in each building.

Assessment of the application against the relevant planning framework and consideration of matters by Council's technical departments has not identified any fundamental issues of concerns. The application is therefore satisfactory when evaluated against section 4.15 of the Environmental Planning and Assessment Act 1979.

This report recommends that the Panel:

- Approve the application, subject to the recommended conditions.

## 2. Key Issues

- Variations to LEP height control.

## 3. Site description, location and context

The site is known as The Kings School, 87-129 Pennant Hills Road, North Parramatta (Lot 1 DP 59169, Lot A DP 329288, Lot B DP 329288, Lot A DP 321595, Lot 2 DP 235857, Lot 1 DP 64765, Lot 1 DP 57491, Lot 1 DP 581960, Lot 10 DP 812772). The site has an area of 113.395 hectares. The proposed development is located on the current Hake Harris and Macarthur site within the Kings School which are located towards the north-eastern corner of the site. The existing Hake Harris and Macarthur houses adjoin bushland to the north.

The site contains an educational establishment (The Kings School). The immediate area is characterised by existing residential development to the east, west and south (beyond Pennant Hills Road).

The Kings School site is listed to be of local heritage significance pursuant to The Hills LEP 2012 and contains the following items of heritage significance:

“Gowan Brae Group”, comprising:

- “Gowan Brae House”;
- Kings School Chapel;
- gatehouse and fence;
- Aviary;
- Fountain;
- Rotunda;
- “The Cedars”;
- Grave;
- 19th century driveways and stables;
- Iron palisade fence; and
- Horseshoe bridge/dam and roadway.

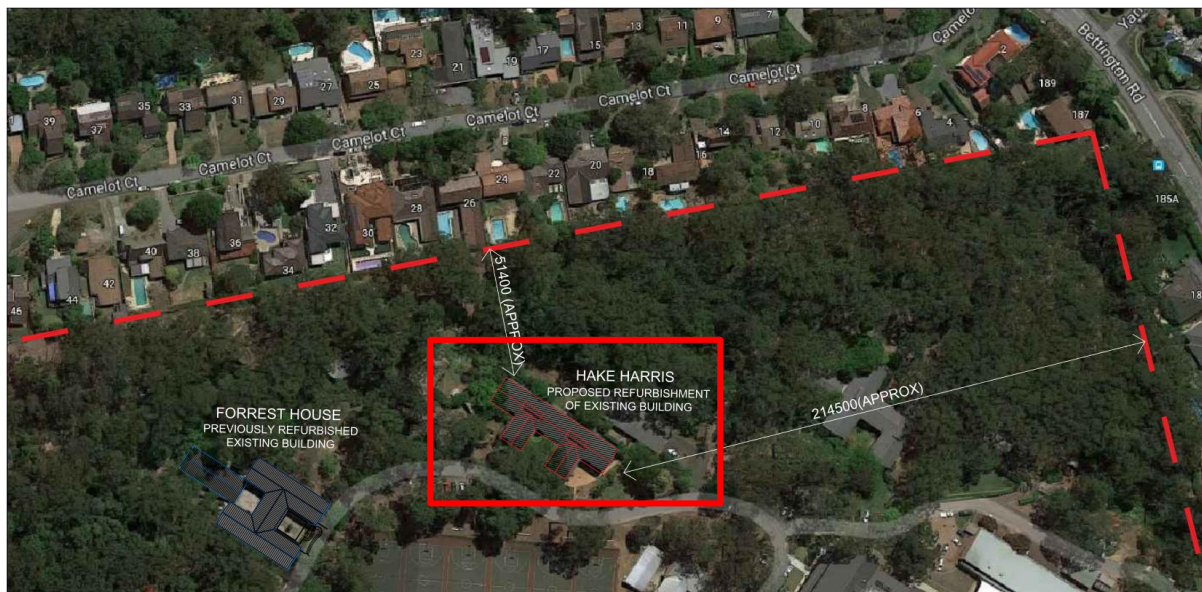


Figure 1: Aerial Map showing location of Hake Harris House



Figure 2: Aerial Map showing location of Macarthur House



*Figure 3: Existing Hake Harris House*



*Figure 4: Existing Macarthur House*

#### 4. Background

<b>DA/818/2013/HC</b>	<b>Development Application</b> On 9 April 2013, DA/818/2013/HC granted development consent for alterations and additions to existing boarding house (Forrest House) within The Kings School.
<b>DA/633/2014/HC</b>	<b>Development Application</b> On 21 February 2014, DA/633/2014/HC granted development consent for alterations and additions to boarding house (Baker House) within The Kings School.
<b>DA/1239/2015/HC</b>	<b>Development Application</b> On 14 July 2015, DA/1239/2015/HC granted development consent for alterations and additions to existing boarding house (Waddy House) within The Kings School.
<b>DA/881/2016</b>	<b>Development Application</b> On 1 February 2017, DA/881/2016 granted development consent for alterations and refurbishment to the existing boarding house with associated external landscaping works within The Kings School.
<b>DA/1199/2016</b>	<b>Development Application</b> On 8 March 2017, DA/1199/2016 granted development consent for demolition works, alterations and additions to the existing Headmaster's residence including the conversion of the existing open carport to incorporate a new studio, new double garage and new roof to the residence at 'The Kings School'.
<b>PL/147/2017</b>	<b>Pre-lodgement meeting</b> On 27 September 2017, a proposal to convert two existing boarding houses into four day houses at The Kings School was considered at a pre-lodgement meeting (PL/147/2017). No issues were raised in relation to the proposal.

#### 5. The proposal

The proposed development is for alterations and refurbishment works to the existing boarding houses, Hake Harris House and Macarthur House at The Kings School.

The proposal will involve tree removal, partial demolition of the existing buildings and will maintain the primary existing footprint. The proposed extensions and additions to the existing buildings are as follows:

<b>Hake Harris House</b>	
Ground Floor	Demolition of existing internal walls and pillars to create larger recreation areas; Construction of a new lift; New verandah; New internal stairs; New concrete paving and brick path to replace existing; New timber fence; and Installation of new powdercoated aluminium windows.
First Floor	Internal alterations to create six (6) study rooms, four WCs and two accessible WCs; and New Awning.
<b>Macarthur House</b>	
Ground Floor	Demolition of existing planter bed, pond, carport and stairs; Extension of the existing building to create four (4) new recreation rooms; Internal alterations to create two WCs and two accessible WCs,

	and two store rooms; New concrete slab and lift; New concrete paving; New retaining wall to replace existing; New planter bed to replace existing; New concrete stairs to replace existing; New surface drain; Installation of new aluminium windows throughout; New external face brick walls to match existing; and New landscaped rock wall.
First Floor	Internal alterations and additions to create 10 study rooms, two shower and WC areas, two accessible WC/showers, locker areas and storage rooms; and New internal stairs.

The proposal will also involve the replacement of the existing roof, tree removal and associated external landscaping works.

The proposal constitutes "Integrated Development" under Section 91 of the Environmental Planning and Assessment Act 1979 as the General Terms of Approval are required under the Rural Fires Act 1997. The highest Bushfire Attack Level to the proposed works to the Macarthur and Hake Harris House buildings was determined to be BAL 29.

The proposed alterations and additions to Hake Harris and Macarthur House will be able to accommodate for a total of 150 students in each building.

Amended plans were received annotating the roof ridge height of the proposed buildings. The amended plans are the subject of this assessment.

## 6. Referrals

The following internal and external referrals were undertaken:

**Table 1: Section 4.15(1)(a) considerations**

Rural Fire Service	Supported subject to conditions. The general terms of approval issued by the Rural Fire Service include conditions relating to creating and maintaining an Asset Protection Zone around Hake Harris and Macarthur House; provision of new water, electricity and gas utilities; preparation of an emergency evacuation plan; and new construction to be in accordance with the required Bushfire Attack Level (BAL 29) requirements.
Open Space	<p>No objections – no conditions required. The proposed Harris House and Macarthur House are located within or in proximity to vegetation mapped by the Office of Environment and Heritage as Coastal Shale-Sandstone Forest, Coastal Enriched Sandstone Dry Forest and Sydney Turpentine-Ironbark Forest.</p> <p>The proposed refurbishment works will not significantly increase the footprint of the existing buildings; however also includes the removal and replacement of surrounding courtyards and pathways in proximity to significant bushland trees. No significant trees are proposed for removal (except Tree 1772) due to poor health; however, works within Tree Protection Zones (AS 4970:2009) will need to be undertaken in accordance with the specific tree protection measures outlined in the Arboricultural Impact Assessment reports.</p> <p>It is also noted that the proposed works include the upgrade of an existing stormwater outlet into Hunts Creek within the bushland vegetation. These works will not require any significant native</p>

	<p>vegetation removal; however, will need to be designed in accordance with NSW Office of Water 'Guidelines for Outlet Structures' to ensure a smooth transition from a constructed to natural drainage system and minimise flow velocities and nutrient loads to downstream Sydney Turpentine-Ironbark Forest Endangered Ecological Community.</p> <p>Therefore, the proposed works will not be 'likely to significantly affect threatened species or ecological communities or their habitats' subject to the implementation of adequate tree protection, erosion and sediment control measures during works.</p>
Landscape	<p>Supported subject to conditions. The following trees are approved to be removed to facilitate development at Macarthur House: Tree No's - 1757,1758,1773,1794,1795, 2950,1737,1772, 2951 &amp; 2952.</p> <p>The following trees are approved to be pruned as per the Arborist recommendations which mainly requires the pruning of deadwood from within the canopy of the tree and the removal of all stubs:1735, 1736, 1738, 1740, 1743, 1744, 1745, 1747, 1748, 1749, 1771, 1774, 1775, 1783, 1784, 1790, 1791, 1792, 1793 &amp; 1796.</p> <p>The following trees are approved to be removed to facilitate development at Hake Harris House: Tree No's – 1404, 1706, 2949, 1699, 1716, 1718, 2818, 2847, 2848, 2849 &amp; 2948.</p> <p>The following trees are approved to be pruned as per the Arborist recommendations which mainly requires the pruning of deadwood from within the canopy of the tree and the removal of all stubs: Tree No's – 1691, 1705, 1715, &amp;1717.</p> <p>The proposal is supported subject to conditions of consent.</p>
Engineering	<p>Supported subject to conditions. As the impervious area is not increased by the proposal, no OSD will be required. The new proposal incorporates a silt trap and trash screens fitted prior to discharging into the bushland. The existing headwall at the point of discharge is also proposed to be upgraded. Therefore, there is a significant overall improvement to the drainage disposal system. The proposal is supported subject to condition of consent.</p>
Heritage	<p>No objections. The works proposed present refurbishment of existing non-significant buildings. The site comprises listed buildings, however, given the nature of the proposal, the separation between sites, and the nature of significance of the item, it is assessed that impact on heritage values of the item will be within acceptable limits. The proposal is supported.</p>

## 7. Environmental Planning and Assessment Act

The sections of this Act which require consideration are addressed below:

### 7.1 Section 1.7: Significant effect on threatened species, populations or ecological communities, or their habitats

This section requires a range of matters to be taken into account in deciding whether there is likely to be a significant effect on threatened species, populations or ecological communities, or their habitats.

The application proposes the removal of 21 trees from the site to facilitate the development. The application was accompanied with an Arboricultural Impact Assessment Report. The report detailed the significance of trees located within the subject

site which include species of Sydney Turpentine Ironbark Forest. Sydney Turpentine Ironbark Forest is classified as a Critically Endangered Ecological Community under The Biodiversity Conservation Act 2016 however the area in which the proposed development is being undertaken is not within the mapped Sydney Turpentine Ironbark Forest. As such, the proposed development is unlikely to have a significant effect on threatened species, populations or ecological communities, or their habitats.

## 7.2 Section 4.15: Evaluation

This section specifies the matters which a consent authority must consider when determining a development application, and these are addressed in the Table below:

**Table 2: Section 4.15(1)(a) considerations**

<b>Provision</b>	<b>Comment</b>
Section 4.15(1)(a)(i) - Environmental planning instruments	Refer to section 8.
Section 4.15(1)(a)(ii) - Draft environmental planning instruments	Refer to section 9.
Section 4.15(1)(a)(iii) – Development control plans	Refer to section 10.
Section 4.15(1)(a)(iia) - Planning agreement	Refer to section 11.
Section 4.15(1)(a)(iv) - The Regulations	Refer to section 12.
Section 4.15(1)(a)(v) - Coastal zone management plan	Not applicable.
Section 4.15(1)(b) - Likely impacts	Refer to section 13.
Section 4.15(1)(c) - Site suitability	Refer to section 14.
Section 4.15(1)(d) – Submissions	Refer to section 15.
Section 4.15(1)(e) - The public interest	Refer to section 16.

## 8. Environmental planning instruments

### 8.1 Overview

The instruments applicable to this application comprise:

- State Environmental Planning Policy (Vegetation in Non-Rural Areas) 2017;
- State Environmental Planning Policy No. 55 – Remediation of Land;
- State Environmental Planning Policy (Sydney Harbour Catchment) 2005;
- State Environmental Planning Policy (Infrastructure) 2007;
- State Environmental Planning Policy (State and Regional Development) 2011; and
- Parramatta Local Environmental Plan 2011.

Compliance with these instruments is addressed below.

## **8.2 State Environmental Planning Policy (Vegetation in Non-Rural Areas) 2017**

The application has been assessed against the requirements of State Environmental Planning Policy (Vegetation in Non-Rural Areas) 2017. This Policy seeks to protect the biodiversity values of trees and other vegetation in non-rural areas of the State, and to preserve the amenity of non-rural areas of the State through the preservation of trees and other vegetation.

The application proposes the removal of 21 trees from the site to facilitate the development. The application was accompanied with an Arboricultural Impact Assessment Report. The report detailed the significance of trees located within the subject site which include species of Sydney Turpentine Iron bark Forest. The recommendations outlined in the report have been reviewed by Council's Landscape Officer who endorses the recommendations for removal of 21 trees.

Further, the site is subject to 10/50 vegetation clearing. A Bushfire Hazard Assessment Report was submitted with the application and referred to NSW Rural Fire Services, in which concurrence was established.

## **8.3 State Environmental Planning Policy No. 55 – Remediation of land**

Clause 7 of this Policy requires that the consent authority must consider if land is contaminated and, if so, whether it is suitable, or can be made suitable, for a proposed use.

In considering this matter it is noted:

- Historical aerial photographs of the subject site reveal the site was extensively covered by bushland and was used for agricultural purposes;
- The Kings School appeared to have established several buildings in which agricultural activities diminished circa 1986;
- Aerial photographs from 1994 reveal the inclusion of new buildings within the Kings School site which has remained substantially the same to date;
- The site is not identified in Council's records as being contaminated; and
- The proposal does not involve significant excavation that would disturb any potential contamination.

Those circumstances are sufficient to satisfy the requirements of clause 7 of this policy without the need for the preparation of a Phase 1 preliminary investigation report.

## **8.4 Deemed State Environmental Planning Policy (Sydney Harbour Catchment) 2005**

The site is not located within the designated hydrological catchment of Sydney Harbour, on the foreshore or adjacent to a waterway and is therefore not subject to the provisions of the above SREP.

The development is consistent with the controls contained within the deemed SEPP.

## **8.5 State Environmental Planning Policy (Infrastructure) 2007**

The provisions of SEPP (Infrastructure) 2007 have been considered in the assessment of the development application.

The application is not subject to clause 45 of the SEPP as the development does not propose works within the vicinity of electricity infrastructure that trigger a written referral to the energy authority. The application is not subject to Clause 85, 86 and 87 of the SEPP as the site is not adjacent to an existing rail corridor or the North West Rail Corridor (under construction).

The application is not subject to clause 101 of the SEPP as the site does not have immediate frontage to a classified road.

The application is not subject to clause 102 of the SEPP as the subject buildings do not have a frontage to a road with an average daily traffic volume of 40,000 vehicles. The subject building is in excess of approximately 650m from Pennant Hills Road.

## 8.6 State Environmental Planning Policy (State and Regional Development) 2011

As this proposal is for an educational establishment has a Capital Investment Value of more than \$5 million, Part 4 of this Policy provides that the Sydney Central City Planning Panel (SCCPP) is the consent authority for this application.

## 8.7 The Hills Local Environmental Plan 2012 (THLEP 2012)

### Zoning and permissibility

The site is zoned SP2 – Infrastructure (Educational Establishment) pursuant to The Hills Local Environmental Plan 2012. The proposed development is defined as works ancillary to an educational establishment which is permissible with consent within the SP2 – Infrastructure (Educational Establishment) zone.

### Zone objectives

Clause 2.3(2) of the Plan requires the consent authority to have regard to the zone objectives when determining a development application. The objectives for the SP2 – Infrastructure (Educational Establishment) zone are to:

- *To provide for infrastructure and related uses; and*
- *To prevent development that is not compatible with or that may detract from the provision of infrastructure.*

Noting the assessment within this report, the proposal is consistent with those objectives.

### Remaining provisions

Consideration of the remaining provision of the Plan which may be relevant to this application is addressed in the following table:

**Table 3: THLEP 2012 compliance table**

Clause	Comment	Complies
Clause 2.7 Demolition	Consent is sought for minor internal and external demolition and forms part of the scope of works proposed as part of this application.	<b>YES.</b>
Clause 4.3 – Building height	The maximum permissible building height is 9m. The proposed building height is 9.1m. A variation is sought under Clause 4.6 of the LEP and a Clause 4.6 variation statement has been submitted by the applicant and is attached to this report. Please refer to the Clause 4.6 below.	<b>NO – Refer to Clause 4.6 discussion below.</b>

Clause 4.4 FSR	The site is not subject to a maximum FSR.	N/A.
Clause 4.6 Exceptions to Development Standards	<p><b>Objectives of Clause 4.6 of THLEP 2012</b></p> <p>1. The objectives of this clause are as follows:</p> <ul style="list-style-type: none"> <li>a) <i>to provide an appropriate degree of flexibility in applying certain development standards to particular development,</i></li> <li>b) <i>to achieve better outcomes for and from development by allowing flexibility in particular circumstances.</i></li> </ul> <p>A written request under the provisions of Clause 4.6 of THLEP 2012 was submitted with this application as the proposed development seeks a variation to the following development standard:</p> <ul style="list-style-type: none"> <li>• <b>Clause 4.3 – Height of Buildings</b></li> </ul> <p>The proposal does not comply with the maximum building height of 9 metres applicable for this site. The proposed building height is 9.1 metres which is a 1.1% variation to the development standard.</p> <p>The applicant has submitted the following justification for the variation to the maximum building height permitted:</p> <ul style="list-style-type: none"> <li>• <i>The non-compliance is due to the greater roof pitch over the proposed building to match roofs elsewhere in the school and specifically the existing Kurrle Wickham day boy houses. This is in order to keep the architectural language of the school consistent and in line with the principles of the established school masterplan;</i></li> <li>• <i>While the height of the proposed building exceeds 9m, the building remains as a 2 storey building and will relate better to the more recent buildings surrounding it, so that it will become part of a visually cohesive group of ‘modern’ school buildings; and</i></li> <li>• <i>The siting of the proposed development is approximately 550m from the closest heritage item (the chapel is located to the South) and the proposed development is totally within the Kings School grounds. Therefore it has minimal adverse impact on any surrounding neighbours or items of heritage.</i></li> </ul> <p><b><u>Assessment of the exception under Clause 4.6:</u></b></p> <p>In assessing an exception to vary a development standard, the following needs to be considered:</p> <p><b>1. Is the planning control a development standard?</b></p> <p>The planning control, Clause 4.3 Height of Buildings is a development standard pursuant to THLEP 2012.</p> <p><b>2. What is the underlying object or purpose of the standard?</b></p> <p>The underlying purpose of Clause 4.3 is to ensure the height of buildings is compatible with that of adjoining development and the overall streetscape and to minimise the impact of overshadowing, visual impact, and loss of privacy on adjoining properties and</p>	

	<p>open space areas.</p> <p><b>3. Is compliance with the development standard consistent with the aims of the Policy, and in particular does compliance with the development standard tend to hinder the attainment of the objects specified in section 5(a)(i) and (ii) of the EPA Act?</b></p> <p>Strict compliance with the development standard would result in an inconsistent built form contrary to the envisioned built form for the site and would prevent the orderly development of land. This does not demonstrate consistency with the aims of THLEP 2012, which are to guide the orderly and sustainable development of The Hills, balancing its economic, environmental and social needs; provide strategic direction and urban and rural land use management for the benefit of the community; and to provide for balanced urban growth through efficient and safe transport infrastructure, a range of housing options, and a built environment that is compatible with the cultural and natural heritage of The Hills.</p> <p>Compliance with the development standard in this case would also hinder the attainment of the objects specified in section 5(a)(i) and (ii) of the EPA Act which include the promotion and co-ordination of the orderly and economic use and development of land.</p> <p><b>4. Is compliance with the development standard unreasonable or unnecessary in the circumstances of the case?</b></p> <p>Compliance with the development standard is considered to be unreasonable in the circumstances of the case for the following reasons:</p> <ul style="list-style-type: none"> <li>• The variation is a minor departure from the development standard (1.1%);</li> <li>• The non-compliance is the result of the proposed roof form which presents an architectural style that is consistent with the adopted architectural style and design language of the school;</li> <li>• The roof form is desired in order to integrate with the prevailing roof forms and architectural style of the existing campus. The consists of other boarding houses and day boy houses which have been approved with departures to the height control of 9m. The proposed buildings are isolated from other buildings on the campus and would not result in adverse impacts on adjoining properties;</li> <li>• The subject buildings have generous setbacks to the site boundaries and given the existing vegetation on the site, would not be visible from Pennant Hills Road of adjoining residential properties and would only be visible to school students, visitors and staff; and</li> <li>• There is no public benefit in maintaining the development standard as proposed. The departure from the maximum building height is acceptable in the circumstances given the underlying objectives are achieved and would not set an undesirable precedent for future development in the locality.</li> </ul> <p><b>5. Is the exception well founded?</b></p>	
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	<p>Chief Justice Preston of the NSW Land and Environment Court provided further guidance to consent authorities as to how variations to the standards should be approached. Justice Preston expressed the view that there are 5 different circumstances in which an objection may be well founded:</p> <ol style="list-style-type: none"> <li>1. The objectives of the standard are achieved notwithstanding non-compliance with the standard;</li> <li>2. The underlying objective or purpose of the standard is not relevant to the development and therefore compliance is unnecessary;</li> <li>3. The underlying object or purpose would be defeated or thwarted if compliance was required and therefore compliance is unreasonable;</li> <li>4. The development standard has been virtually abandoned or destroyed by the Council's own actions in granting consents departing from the standard and hence compliance with the standard is unnecessary and unreasonable;</li> <li>5. The zoning of the particular land is unreasonable or inappropriate so that a development standard appropriate for that zoning is also unreasonable and unnecessary as it applies to the land and compliance with the standard would be unreasonable or unnecessary. That is, the particular parcel of land should not have been included in the particular zone.</li> </ol> <p>Having regard to the above, the variation sought with the development standard would not compromise the public interest. There are sufficient planning grounds to warrant support for a variation to the maximum building height. In this regard, full compliance with the development standard is considered to be unreasonable and unnecessary in this instance.</p> <p>Clause 4.6(3)(b) requires a variation sought to be based on sufficient environmental planning grounds in order to justify contravening the development standard. Despite the non-compliance with the maximum building height control, the proposal remains consistent with the objectives of the zone and has demonstrated the following:</p> <ul style="list-style-type: none"> <li>• The subject buildings as located within The Kings School campus. Buildings maintain substantial separation both within the campus and from buildings on adjoining sites. As such, the variation to the maximum height would not unreasonably impact on the privacy and solar access of adjoining buildings and adjoining properties;</li> <li>• The proposed development would be consistent with the existing bulk and scale of buildings as well as the architectural design language located within the Kings School campus. The variation to height would not be dissimilar to other buildings on the campus which have also been approved to vary the height control;</li> <li>• The variation would not adversely impact on the quality of the heritage items located in the vicinity to the proposed works and provide a visual distinction of older buildings and contemporary development;</li> <li>• The proposed development responds to the site without compromising its relationship with the built environment.</li> </ul> <p>Compliance with the development standard is unreasonable and unnecessary and in this instance, sufficient planning grounds</p>	
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	particular to this development on this site to warrant a departure from the development standard have been provided.	
Clause 5.10 Heritage	The subject buildings are not heritage items or located within a Heritage Conservation Area. Notwithstanding, the proposal is located within The Kings School which contains several heritage listed items of local significance. The proposal was reviewed by Council's Heritage Advisor who considers that ample separation is provided to ensure that new works do not detract from the setting of nearby heritage items.	<b>YES.</b>
Clause 5.11 Bushfire Hazard Reduction	The development application was referred to NSW Rural Fire Service as an Integrated Development pursuant to Section 91 (1) of the Environmental Planning and Assessment Act 1979 as a Bushfire Safety Authority is required under the Rural Fires Act 1997. On 19 March 2018, concurrence was received from the RFS.	<b>YES.</b>
Clause 7.1 Acid sulphate soils	An Acid Sulfate Soils Management Plan is not required to be prepared.	<b>YES.</b>
Clause 7.2 Earthworks	Council's Development Engineer has reviewed the application and considers that the proposed earthworks are satisfactory.	<b>YES.</b>
Clause 7.3 Flood Planning	The site is not identified as flood prone.	<b>N/A.</b>
Clause 7.4 Biodiversity	The site is not identified on this map.	<b>N/A.</b>

## 9. Draft Environmental planning instruments

There are no draft environmental planning instruments applicable to the site.

## 10. Development control plan

### 10.1 The Hills Development Control Plan 2012 (DCP 2012)

The purpose of this DCP is to supplement the Hills LEP 2012 and provide more detailed provisions to guide development. There are limited design or development controls relating to educational establishments in DCP 2012.

The relevant matters to be considered under The Hills Development Control Plan for the proposed development is outlined below:

#### Part C Section 1 - Parking

Part C Section 1 - Parking, requires that car parking be provided at the following rate for an educational establishment:

*"1 space per employee, plus  
1 space per 8 year 12 students, plus  
1 space per 30 students enrolled for visitors and/or parent parking"*

#### Planning Comment:

The current Boarding Houses accommodate a total of 66 students. The proposed alterations and additions to Hake Harris and Macarthur House will be able to accommodate for a total of 150 students in each house.

It is noted that that the proposed development will permit an additional 84 students to board at the Hake Harris and Macarthur House however, no additional car parking requirements are generated for the boarding house as the additional students being accommodated are existing students of The Kings School.

The refurbishment and conversation of these two existing boarding houses into four day boy houses will take students of the existing Burkitt, Macquarie, Dalmas and Britten Houses on the site which are intended to be demolished in the future.

The two existing staff car parking spaces located in the existing carport adjacent to Macarthur House can be relocated on the site.

## **Part C Section 4 – Heritage**

The proposal has been assessed against the provisions of Section 3.5 ‘Development in the Vicinity of a Heritage Item’ in Part C Section 4 – Heritage of DCP 2012.

Council’s Heritage Advisor has reviewed the proposal and outlined that there is satisfactory separation to ensure that the new works do not detract from the setting of the heritage items on the site and views to and from these items will not be obstructed.

The proposed boarding house building would be suitably screened by existing established vegetation and is located a satisfactory distance from the Rotunda. The proposed buildings would not overshadow the heritage item or impact on its significance. Therefore, the proposal is satisfactory from a heritage viewpoint.

## **11. Planning Agreements**

The proposal is not subject of a planning agreement.

## **12. The Regulations**

Applicable Regulation considerations including demolition, fire safety, fire upgrades, compliance with the Building Code of Australia, PCA appointment, notice of commencement of works, sign on work sites, critical stage inspections and records of inspection have been addressed by appropriate consent conditions as attached.

## **13. The likely impacts of the development**

### **13.1 Context and setting**

The Land and Environment Court planning principle on “compatibility with context” as established in *Project Venture Developments v Pittwater Council* provides the following test to determine whether a proposal is compatible with its context:

*Are the proposal’s physical impacts on surrounding development acceptable? The physical impacts include constraints on the development potential of surrounding sites?*

#### Response

This proposal will not result in unacceptable adverse physical impacts as follows:

- The design and location of the buildings will not preclude surrounding land from being developed in accordance with planning controls;

- The proposal will not generate noise or diminish views that would be detrimental to adjacent and surrounding sites; and
- The proposed buildings are separated from heritage items located on the site.

*Is the proposal's appearance in harmony with the buildings around it and the character of the street?*

#### Response

This proposal will have a satisfactory relationship with its context for the following reasons:

- The scale, form and presentation of the building is generally consistent with planning controls, and is consistent with other similar buildings approved on this site; and
- The built form does not result in any significant adverse impacts for adjacent sites.

### **13.2 Built Form**

#### Building Height

The proposal does not comply with the LEP building height control. The applicant has submitted a request to vary this control under Clause 4.6 of the LEP which is held at Attachment 2 of this report. The proposed height variation is acceptable on the basis that the non-compliance is the result of the proposed roof form which is desired in order to integrate with the prevailing roof forms and architectural style of the existing campus; the proposed buildings are isolated from other buildings on the campus and would not result in adverse impacts on adjoining properties; and the subject buildings have generous setbacks to the site boundaries and given the existing vegetation on the site, would not be visible from Pennant Hills Road of adjoining residential properties. A variation can be supported for the reasons above.

### **14. Site suitability**

Subject to the conditions provided within the recommendation to this report the site is suitable for this development given:

- It is an appropriate "fit" for the locality given the preceding analysis which demonstrates a lack of adverse built form; and
- The site attributes are conducive noting natural constraints/hazards; ecological and heritage impacts are able to be properly managed.

### **15. Submissions**

The application was notified and advertised in accordance with the Hills DCP 2012 for a 30 day period between 11 January 2018 and 13 February 2018. No submissions were received.

### **16. Public interest**

Subject to resolution of the issues of concern as addressed by the recommendation of this report, no circumstances have been identified to indicate this proposal would be contrary to the public interest.

### **17. Parramatta S94A Contributions Plan 2017 (Former Hills LGA Land)**

The site is subject to Section 7.12 contributions and the Parramatta Section 94A Contributions Plan 2017 (Former Hills LGA Land) is applicable. As the cost of works for the development is \$6,040,844 and exceeds \$250,000 a Section 94A development contribution of 1% is required to be paid. The cost of works estimate submitted with the application details \$189,000 worth of exemptions. Accordingly, the Section 94A contributions will be calculated on the value of \$5,851,854.

The relevant condition of consent pertaining to the payment of Section 94 contributions will be amended to include the additional contributions payable prior to the issue of a Construction Certificate.

### **Summary and conclusion**

The application has been assessed relative to section 4.15 of the Environmental Planning and Assessment Act 1979, taking into consideration all relevant state and local planning controls. The proposal has demonstrated a satisfactory response to the objectives and controls of the applicable planning framework. Accordingly, the application is recommended suitable for approval subject to the imposition of appropriate conditions.

### **RECOMMENDATION**

**That** the Sydney Central City Planning Panel as the consent authority grant consent to Development Application No. DA/1009/2017 for Alterations and additions to two (2) existing boarding houses to create four (4) day houses at The Kings School, 87-129 Pennant Hills Road, North Parramatta being Lot 1 DP 59169, Lot A DP 329288, Lot B DP 329288, Lot A DP 321595, Lot 2 DP 235857, Lot 1 DP 64765, Lot 1 DP 57491, Lot 1 DP 581960, and Lot 10 DP 812772, for a period of five (5) years for physical commencement to occur from the date on the Notice of Determination subject to the conditions in Attachment 1.

## Attachment 1 to Section 4.15 Assessment Report - DA/1009/2017

### DRAFT CONDITIONS OF CONSENT

Upon the signature of the applicable delegate the conditions in this Appendix will form the conditions of development consent.

**Development Consent No.:** DA/1009/2017

**Property Address:** Lot 1 DP 59169, Lot A DP 329288, Lot B DP 329288, Lot A DP 321595, Lot 2 DP 235857, Lot 1 DP 64765, Lot 1 DP 57491, Lot 1 DP 581960, Lot 10 DP 812772

The Kings School, 87-129 Pennant Hills Road, NORTH PARRAMATTA NSW 2151

### General Matters

#### **PA0001 # Approved plans and supporting documentation**

1. The development is to be carried out in accordance with the following plans endorsed with Council's Stamp as well as the documentation listed below, except where amended by other conditions of this consent and/or any plan annotations:

Drawing No.	Prepared By	Dated
Hake Harris Refurbishment Site Plan, Drawing No. 1727 DA01,	Butler and Co Architects	20 September 2017
Hake Harris Refurbishment Ground Floor Plan, Drawing No. 1727 DA02, Rev E.	Butler and Co Architects	6 December 2017
Hake Harris Refurbishment First Floor Plan, Drawing No. 1727 DA03, Rev B.	Butler and Co Architects	6 December 2017
Hake Harris Refurbishment Elevations, Drawing No. 1727 DA04, Rev D.	Butler and Co Architects	19 December 2017
Hake Harris Refurbishment Sections, Drawing No. 1727 DA05, Rev D.	Butler and Co Architects	19 December 2017
Macarthur Refurbishment Site Plan, Drawing No. 1728 DA01	Butler and Co Architects	20 September 2017
Macarthur Refurbishment Ground Floor Plan, Drawing No. 1728 DA02, Rev F.	Butler and Co Architects	6 December 2017

Macarthur Refurbishment First Floor Plan, Drawing No. 1728 DA03, Rev B.	Butler and Co Architects	6 December 2017
Macarthur Refurbishment Elevations, Drawing No. 1728 DA04, Rev D.	Butler and Co Architects	19 December 2017
Macarthur Refurbishment Sections, Drawing No. 1728 DA05, Rev C.	Butler and Co Architects	19 December 2017
Hake Harris Refurbishment Stormwater Plans, Drawing No. SW-00 – SW-05, Revision C	Harris Page and Associates	7 December 2017
Hake Harris Refurbishment Stormwater Plans, Drawing No. SW-00 – SW-05, Revision C	Harris Page and Associates	7 December 2017

Document(s)	Prepared By	Dated
Statement of Environmental Effects	unnamed	28 November 2017
Waste Management Plan	The Council of The Kings School	16 October 2017
Macarthur House Finishes Schedule	unnamed	January 2018
Hake Harris House Finishes Schedule	unnamed	January 2018
Bushfire Hazard Assessment Report, Ref No. 180290	Bushfire Code and Bushfire Hazard Solutions Pty Ltd	16 October 2017
Aboriginal Impact Assessment – Hake Harris House, Ref. C91047	ArborSafe Australia Pty Ltd	5 December 2017
Aboriginal Impact Assessment – Macarthur House, Ref. C91048	ArborSafe Australia Pty Ltd	6 December 2017

**Note:** In the event of any inconsistency between the architectural plan(s) and the landscape plan(s) and/or stormwater disposal plan(s) (if applicable), the architectural plan(s) shall prevail to the extent of the inconsistency.

**Reason:** To ensure the work is carried out in accordance with the approved plans.

#### **DANSC Non-standard - General Matters**

2. All specific conditions imposed by Council's Open Space & Natural Area Division shall be complied with to the satisfaction of the division.

**Reason:** To ensure proposal complies with the Open Space & Natural Area Divisions' requirements.

**LA0002 #Demolition & tree removal (Delete N/A Councils)**

3. Trees equal to or greater than six (6) metres in height, which are protected under Hills Development Control Plan 2012 (Part C Section 3), must not be removed or damaged without Council consent, unless approved in the consent conditions.

**Reason:** To preserve existing landscape features.

**OA0009 Waterways Protection**

4. All works must be carried out so that:
  - (i) No materials are eroded, or likely to be eroded, are deposited, or likely to be deposited, on the bed or shore or into the waters of Hunts Creek; and
  - (ii) No materials are likely to be carried by natural forces to the bed, shore or waters of Hunts Creek.

Any material that does enter Hunts Creek must be removed immediately.

**Reason:** To ensure protection of waterways.

**PA0002 Building work in compliance with BCA**

5. All building work must be carried out in accordance with the current provisions of the Building Code of Australia (National Construction Code).

**Reason:** To comply with the Environmental Planning & Assessment Act 1979, as amended and the Environmental Planning & Assessment Regulation 2000.

**PA0003 Construction Certificate**

6. Prior to commencement of any construction works associated with the approved development (including excavation if applicable), it is mandatory to obtain a Construction Certificate. Plans, specifications and relevant documentation accompanying the Construction Certificate must include any requirements imposed by conditions of this Development Consent.

**Reason:** To ensure compliance with legislative requirements.

**PA0004 No encroachment on Council and/or Adjoining proper**

7. The development must be constructed within the confines of the property boundary. No portion of the proposed structure, including footings/slabs, gates and doors during opening and closing operations must encroach upon Council's footpath area or the boundaries of the adjacent properties.

**Reason:** To ensure no injury is caused to persons and the building is erected in accordance with the approval granted within the boundaries of the site.

**PA0011 #Demolition of Buildings**

8. Approval is granted for the demolition of part of the internal and external walls for the existing Hake Harris House and Macarthur House currently on the property, subject to compliance with the following:-

- (a) Demolition is to be carried out in accordance with the applicable provisions of Australian Standard AS2601-2001 - Demolition of Structures.

**Note:** Developers are reminded that WorkCover requires that all plant and equipment used in demolition work must comply with the relevant Australian Standards and manufacturer specifications.

- (a) The developer is to notify owners and occupiers of premises on either side, opposite and at the rear of the development site 5 working days prior to demolition commencing. Such notification is to be a clearly written on A4 size paper giving the date demolition will commence and is to be placed in the letterbox of every premises (including every residential flat or unit, if any). The demolition must not commence prior to the date stated in the notification.
- (b) 5 working days (i.e., Monday to Friday with the exclusion of Public Holidays) notice in writing is to be given to City of Parramatta for inspection of the site prior to the commencement of works. Such written notice is to include the date when demolition will commence and details of the name, address, business hours, contact telephone number and licence number of the demolisher. Works are not to commence prior to Council's inspection and works must also not commence prior to the commencement date nominated in the written notice.
- (c) On the first day of demolition, work is not to commence until City of Parramatta has inspected the site. Should the building to be demolished be found to be wholly or partly clad with asbestos cement, approval to commence demolition will not be given until Council is satisfied that all measures are in place so as to comply with Work Cover's document "Your Guide to Working with Asbestos", and demolition works must at all times comply with its requirements.
- (d) On demolition sites where buildings to be demolished contain asbestos cement, a standard commercially manufactured sign containing the words "DANGER ASBESTOS REMOVAL IN PROGRESS" measuring not less than 400mm x 300mm is to be erected in a prominent visible position on the site to the satisfaction of Council's officers. The sign is to be erected prior to demolition work commencing and is to remain in place until such time as all asbestos cement has been removed from the site to an approved waste facility. This condition is imposed for the purpose of worker and public safety and to ensure compliance with Clause 259(2)(c) of the Occupational Health and Safety Regulation 2001.
- (e) Demolition must not commence until all trees required to be retained are protected in accordance with the conditions detailed under "Prior to Works Commencing" in this Consent.
- (f) All previously connected services are to be appropriately disconnected as part of the demolition works. The applicant is obliged

to consult with the various service authorities regarding their requirements for the disconnection of services.

- (g) Demolition works involving the removal and disposal of asbestos cement in excess of 10 square metres, must only be undertaken by contractors who hold a current WorkCover "Demolition Licence" and a current WorkCover "Class 2 (Restricted) Asbestos Licence".
- (h) Demolition works are restricted to Monday to Friday between the hours of 7.00am to 5.00pm. No demolition works are to be undertaken on Saturdays, Sundays or Public Holidays.
- (i) 1.8m high Protective fencing is to be installed to prevent public access to the site.
- (j) Occupation of any part of the footpath or road at or above (carrying out work, storage of building materials and the like) during construction of the development shall require a Road Occupancy Permit from Council. The applicant is to be required to submit an application for a Road Occupancy Permit through Council's Traffic and Transport Services, prior to carrying out the construction/restoration works.
- (k) Oversize vehicles using local roads require Council's approval. The applicant is to be required to submit an application for an Oversize Vehicle Access Permit through Council's Traffic and Transport Services, prior to driving through local roads within Parramatta LGA.
- (l) All asbestos laden waste, including asbestos cement flat and corrugated sheets must be disposed of at a tipping facility licensed by the Environment Protection Authority (EPA).
- (m) Before demolition works begin, adequate toilet facilities are to be provided.
- (n) After completion, the applicant must notify City of Parramatta within 7 days to assess the site and ensure compliance with AS2601-2001 – Demolition of Structures.
- (o) Within 14 days of completion of demolition, the applicant must submit to Council:
  - (i) An asbestos clearance certificate issued by a suitably qualified person if asbestos was removed from the site; and
  - (i) A signed statement verifying that demolition work and the recycling of materials was undertaken in accordance with the Waste Management Plan approved with this consent. In reviewing such documentation Council will require the provision of original.
  - (ii) Payment of fees in accordance with Council's current schedule of fees and charges for inspection by Parramatta Council of the demolition site prior to commencement of any demolition works and after the completion of the demolition works.

**Reason:** To protect the amenity of the area.

## **PANSC      Non-standard - General Matters**

9. At the commencement of building works and in perpetuity, the property around Hake Harris House shall be managed as an inner protection area (IPA) up to a distance of 18m on the northern and north-eastern aspects as outlined within section 4.1.3 and Appendix 5 of 'Planning for Bush Fire Protection 2006' and the NSW Rural Fire Service's document 'Standards for asset protection zones'.  
**Reason:** To provide sufficient space and maintain reduced fuel loads so as to ensure radiant heat levels of buildings are below critical limits and to prevent direct flame contact with a building.

**PANSC Non-standard - General Matters**

10. At the commencement of building works and in perpetuity, the property around MacArthur House shall be managed as an inner protection area (IPA) up to a distance of 18m on the northern aspect and 49m on the north-eastern and eastern aspects as outlined within section 4.1.3 and Appendix 5 of 'Planning for Bush Fire Protection 2006' and the NSW Rural Fire Service's document 'Standards for asset protection zones'.  
**Reason:** To provide sufficient space and maintain reduced fuel loads so as to ensure radiant heat levels of buildings are below critical limits and to prevent direct flame contact with a building.

**EPA0062 Soil and Water Management – Stockpiles**

11. Stockpiles of topsoil, sand, aggregate, soil or other material are not to be located on any drainage line or easement, natural watercourse, footpath or roadway and shall be protected with adequate sediment controls.  
**Reason:** To ensure that building materials are not washed into stormwater drains.

**Prior to the issue of a Construction Certificate**

- (Note: Some conditions contained in other sections of this consent (including prior to occupation/use commencing) may need to be considered when preparing detailed drawings/specifications for the Construction Certificate.)

**OB0001 Reserve Stormwater CEMP**

12. Prior to the issue of a Construction Certificate, a Construction Environmental Management Plan (CEMP) for the stormwater headwall works must be prepared by a suitably qualified person and submitted to Council for approval by the Service Manager Open Space & Natural Resources or delegate. The CEMP must include measures to ensure protection of the bushland native vegetation communities.  
**Reason:** To ensure adequate protection of existing environmental assets and to maintain public amenity.

**DB0001 Stormwater Disposal**

13. All roof water and surface water are to be connected to an operable drainage system. Details are to be shown on the plans and documentation accompanying the application for a Construction Certificate. The final construction plans shall be prepared based on the following Concept drainage plans approved with the Development Application:

- i. Stormwater Concept Plan, Drawing No. SW-00, Issue A, dated 13.10.17, prepared by Harris Page & Associates Pty Ltd, Hydraulic & Fire Consultant.
- ii. Stormwater Services Ground Floor Plan, Drawing No. SW-01, Issue A, dated 13.10.17, prepared by Harris Page & Associates Pty Ltd, Hydraulic & Fire Consultant.
- iii. Stormwater Services First Floor Plan, Drawing No. SW-02, Issue A, dated 13.10.17, prepared by Harris Page & Associates Pty Ltd, Hydraulic & Fire Consultant.
- iv. Stormwater Services Detail Sheet, Drawing No. SW-03, Issue A, dated 13.10.17, prepared by Harris Page & Associates Pty Ltd, Hydraulic & Fire Consultant.
- v. Stormwater Services Sediment & Erosion Control Plan, Drawing No. SW-04, Issue A, dated 13.10.17, prepared by Harris Page & Associates Pty Ltd, Hydraulic & Fire Consultant.

**Reason:** To ensure satisfactory stormwater disposal.

**DB0003 Sydney Water Quick check**

14. A building plan approval must be obtained from Sydney Water Tap in™ to ensure that the approved development will not impact Sydney Water infrastructure.

A copy of the building plan approval receipt from Sydney Water Tap in™ must be submitted to the Principal Certifying Authority upon request prior to works commencing.

Please refer to the website <http://www.sydneywater.com.au/tapin/index.htm>, Sydney Water Tap in™, or telephone 13 20 92.

**Reason:** To ensure the requirements of Sydney Water have been complied with.

**DB0004 Dial Before you Dig Service**

15. Prior to any excavation on or near the subject site the person/s having benefit of this consent are required to contact the NSW Dial Before You Dig Service (NDBYD) on 1100 to receive written confirmation from NDBYD that the proposed excavation will not conflict with any underground utility services. The person/s having the benefit of this consent are required to forward the written confirmation from NDBYD to their Principal Certifying Authority (PCA) prior to any excavation occurring.  
**Reason:** To ensure Council's assets are not damaged.

**EWB0002 Separate waste bins for general & recycling waste**

16. Separate waste bins are to be provided on site for recyclable waste.  
**Reason:** To provide for the appropriate collection/ recycling of waste from the proposal whilst minimising the impact of the development upon adjoining residents.

**PB0002 Long Service Levy payment for Constr. over \$25,000**

17. The Construction Certificate is not to be issued unless the Certifying Authority is satisfied the required levy payable, under Section 34 of the Building and Construction Industry Long Service Payments Act 1986, has been paid.  
**Reason:** To ensure that the levy is paid.

**PB0029 Environmental Enforcement Service Charge - All DAs**

18. An Environmental Enforcement Service Charge must be paid to Council prior to the issue of a Construction Certificate. The fee will be in accordance with Council's adopted 'Fees and Charges' at the time of payment.  
**Note:** Council's Customer Service Team can advise of the current fee and can be contacted on 9806 5524.  
**Reason:** To comply with Council's adopted Fees and Charges Document and to ensure compliance with conditions of consent.

**PB0030 Infrastructure & Restoration Adm. fee for all DAs**

19. An Infrastructure and Restoration Administration Fee must be paid to Council prior to the issue of a Construction Certificate.  
The fee will be in accordance with Council's adopted 'Fees and Charges' at the time of payment.  
**Note:** Council's Customer Service Team can advise of the current fee and can be contacted on 9806 5524.  
**Reason:** To comply with Council's adopted Fees and Charges Document and to ensure compliance with conditions of consent.

**PB0046 #Develop Contribution Plan (Former Hills LGA Land)**

20. A monetary contribution comprising \$58,518.50 is payable to City of Parramatta Council in accordance with Section 7.12 of the Environmental Planning and Assessment Act 1979 and the *City of Parramatta Section 94A Development Contributions Plan (Former Hills LGA Land)*. Payment must be by EFTPOS, bank cheque or credit card only.

The contribution is to be paid to Council prior to the issue of a construction certificate.

The contribution levy is subject to indexation on a quarterly basis in accordance with movements in the Consumer Price Index (*All Groups Index*) for Sydney issued by the Australian Statistician. At the time of payment, the contribution levy may have been the subject of indexation.

The *City of Parramatta Section 94A Development Contributions Plan (Former Hills LGA Land)* can be viewed on Council's website at:

<https://www.cityofparramatta.nsw.gov.au/business-development/planning/development-contributions>

**Reason:** To comply with legislative requirements and to provide for the increased demand for public amenities and services resulting from the development.

### **Prior to Work Commencing**

#### **OC0003      Control spread of weeds to exotic seeds to reserve**

21. To control the spread of weeds or exotic seeds into the adjoining bushland, a strip of filter fabric is to be attached to the sediment fence prior to the commencement of demolition, excavation or building works. The filter fabric is to be a minimum of 50mm into the existing ground, to extend a minimum 150mm above existing ground and securely attached to the entire length of the sediment fence. The build-up of sediment against the filter fabric is to be regularly removed and disposed of responsibly off site to ensure on-going effectiveness. Details demonstrating compliance is to be submitted to the Principal Certifying Authority.

**Reason:** To ensure protection of bushland and minimise the impacts of the development.

#### **LC0002      #Tree protection as per arborist report**

22. The trees identified for protection within the consent shall be protected prior to and during the demolition/construction process in accordance with the Arboricultural Impact Assessment and Tree Protection Plan prepared by ArborSafe Australia Pty Ltd (Macarthur House/Ref No – C91048) dated 6 December 2017 & (Hake Harris House/Ref No – C91047) dated 5 December 2017 and the conditions of consent.

**Reason:** To ensure the protection of the tree(s) to be retained on the site.

#### **LC0004      Protective fencing**

23. (Where practical) Retained trees or treed areas must be fenced with a 1.8-metre-high chain-wire link or welded mesh fence. The fence is to be fully supported at grade, to minimise the disturbance of existing ground

conditions within the canopy drip line or the setback nominated on the approved landscaping plan. The fencing is to be in place for the duration of the construction works. "Tree Protection Zone" signage must be attached to the protective fencing.

**Reason:** To protect the environmental amenity of the area.

**DC0006      Erosion and Sediment Control measures**

24. Erosion and sediment control measures are to be installed in accordance with the publication 'Urban Stormwater: Soils and Construction "The Blue Book" 2004 (4th edition) prior to the commencement of any demolition, excavation or construction works upon the site. These measures are to be maintained throughout the entire works.

**Reason:** To ensure soil and water management controls are in place before site works commence.

**BC0001      Toilet facilities on site**

25. Prior to work commencing, adequate toilet facilities are to be provided on the work site.

**Reason:** To ensure adequate toilet facilities are provided.

**PC0001      #Appointment of PCA**

26. Prior to commencement of work, the person having the benefit of the Development Consent and Construction Certificate approval must:

- (a) Appoint a Principal Certifying Authority (PCA) and notify Council in writing of the appointment (irrespective of whether Council or an accredited private certifier) within 7 days; and
- (b) Notify Council in writing a minimum of 48 hours prior to work commencing of the intended date of commencement.

The Principal Certifying Authority must determine and advise the person having the benefit of the Construction Certificate when inspections, certification and compliance certificates are required.

**Reason:** To comply with legislative requirements.

**PC0002      Enclosure of the site**

27. The site must be enclosed by a 1.8m high security fence erected wholly within the confines of the site to prevent unauthorised access. The fence must be installed to the satisfaction of the Principal Certifying Authority prior to the commencement of any work on site.

**Reason:** To ensure public safety.

**PC0003      Site Sign**

28. A sign must be erected in a prominent position on any site involving excavation, erection or demolition of a building in accordance with Clause 98 A (2) of the Environmental Planning and Assessment Regulations 2000 detailing:

- (a) Unauthorised entry of the work site is prohibited;

- (b) The name of the principal contractor (or person in charge of the work site), their telephone number enabling 24hour contact; and
- (c) The name, address and telephone number of the Principal Certifying Authority;
- (d) The development consent approved construction hours;
- (e) The sign must be maintained during excavation, demolition and building work, and removed when the work has been completed.
- (f) This condition does not apply where works are being carried out inside an existing building.

**Reason:** Statutory requirement.

#### **PC0005 Public liability insurance**

29. Public risk insurance in the amount of not less than \$20 million or such other amount as Council may require by notice) must be obtained and furnished to Council before any works authorised by this consent are conducted:

- (a) Above;
- (b) Below; or
- (c) On

Any public land owned or controlled by Council. The public risk insurance must be maintained for the period during which these works are being undertaken.

The public risk insurance must be satisfactory to Council and list Council as an insured and/or interested party.

A copy of the insurance policy obtained must be forwarded to Council before any of the works commence.

**Note:** Applications for hoarding permits, vehicular crossing etc. will require evidence of insurance upon lodgement of the application.

**Reason:** To ensure the community is protected from the cost of any claim for damages arising from works authorised by this consent conducted above, below or on any public land owned or controlled by Council.

### **During Work**

#### **OD0002 Machinery is to be cleaned of soil and debris**

30. All machinery is to be cleaned of soil and debris before entering the site to prevent the spread of weed and fungal pathogens such as Cinnamon Fungus (*Phytophthora cinnamomi*) and Chytrid Fungus (*Batrachochytrium dendrobatidis*).

**Reason:** To ensure protection of bushland and minimise the impacts of the development.

**OD0007 Creek Headwalls**

31. The construction of all headwall outlets shall incorporate flow velocity reduction controls (i.e. bedded boulders and small stones) to minimise erosive and scouring impacts to Hunts Creek as per NSW Office of Water 'Guidelines for Outlet Structures'.

**Reason:** To ensure protection of riparian vegetation and waterways.

**LD0003 Pruning of trees by an arborist**

32. All pruning must be supervised by an Australian Qualification Framework (AQF) Level 3 Arborist and confirm to the provisions of AS4373-2007 "Pruning Amenity Trees", and the Safe Work Australia Guide to managing risks of tree trimming and removal work.

**Reason:** To ensure the pruning will not adversely affect the tree(s).

**LD0004 Material storage and trees**

33. No materials (including waste and soil), equipment, structures or goods of any type are to be stored, kept or placed within five (5) metres of the trunk of a tree or within the drip line of any tree.

**Reason:** To ensure the protection of the tree(s) to be retained on the site.

**LD0006 #Excavation to be supervised by arborist**

34. All excavation within the Tree Protection Zone (TPZ) of trees to be retained, is to be supervised by an Australian Qualifications Framework (AQF) Level 3 arborist. If during excavation the Arborist identifies remedial work is necessary, it is to be supervised by this Arborist.

**Reason:** To provided adequate protection of trees to be retained.

**LD0008 No attachments to trees**

35. No service, structure, conduit or the like is permitted to be fixed or attached to any tree.

**Reason:** To ensure the protection of the tree(s).

**LD0011 Tree Removal**

36. Trees approved to be removed/pruned (Refer to the submitted Arboricultural Impact Assessment Report prepared by ArborSafe Australia Pty Ltd (Macarthur House/Ref No – C91048) dated 6 December 2017 & (Hake Harris House/Ref No – C91047) dated 5 December 2017):

The following trees are approved to be removed to facilitate development at Macarthur House:

Tree No's - 1757,1758,1773,1794,1795, 2950,1737,1772, 2951 & 2952.

The following trees are approved to be pruned as per the Arborist recommendations which mainly requires the pruning of deadwood from within the canopy of the tree and the removal of all stubs:1735, 1736, 1738, 1740, 1743, 1744, 1745, 1747, 1748, 1749, 1771, 1774, 1775, 1783, 1784, 1790, 1791, 1792, 1793 & 1796.

The following trees are approved to be removed to facilitate development at Hake Harris House:

Tree No's – 1404, 1706, 2949, 1699, 1716, 1718, 2818, 2847, 2848, 2849 & 2948.

The following trees are approved to be pruned as per the Arborist recommendations which mainly requires the pruning of deadwood from within the canopy of the tree and the removal of all stubs: Tree No's – 1691, 1705, 1715, & 1717.

**Reason:** To facilitate development.

**LD0013 Removal of trees by an arborist**

37. All approved tree removal must be supervised by an Australian Qualification Framework (AQF) Level 3 Arborist in accordance with the provisions of the Safe Work Australia Guide to managing risks of tree trimming and removal work.

**Reason:** To ensure works are carried out in accordance the Safe Work Australia Guide to managing risks of tree trimming and removal work.

**DD0001 Drainage to existing system**

38. Stormwater from all new impervious areas, and subsoil drainage systems, must be piped to the existing site drainage system. The installation of new drainage components must be completed by a licensed contractor in Accordance with AS3500.3 (2003) - Stormwater Drainage and the Building Code of Australia (National Construction Code).

**Reason:** To ensure satisfactory stormwater disposal.

**DD0005 Erosion & sediment control measures**

39. Works are not to result in sedimentation and or run-off from the approved works onto the adjoining properties and or public lands. The person having the benefit of this consent must ensure sediment is not tracked out from the development site.

**Reason:** To ensure no adverse impacts on neighbouring properties.

**DD0006 Damage to public infrastructure**

40. Any damage to Council assets that impacts on public safety during construction is to be rectified immediately to the satisfaction of Council with all costs to be borne by the person having the benefit of the Development Consent.

**Reason:** To protect public safety.

**EWD0003 Waste data file maintained**

41. A Waste Data file is to be maintained, recording building/demolition contractor's details and waste disposal receipts/dockets for any demolition

or construction wastes from the site. These records must be retained and made available to Council on request.

**Reason:** To confirm waste minimisation objectives under Parramatta Development Control Plan 2011 are met.

**PD0001 Copy of development consent**

42. A copy of this development consent together with the stamped plans, referenced documents and associated specifications is to be held on-site during the course of any works to be referred to by all contractors to ensure compliance with the approval and the associated conditions of consent.

**Reason:** To ensure compliance with this consent.

**PD0003 Dust Control**

43. Dust control measures shall be implemented during all periods of earth works, demolition, excavation and construction to minimise the dust nuisance on surrounding properties. In this regard, dust minimisation practices must be carried out in accordance with Council's Guidelines for Controlling Dust from Construction Sites and Section 126 of the Protection of the Environment Operations Act 1997.

**Reason:** To protect the amenity of the area.

**PD0004 Materials on footpath**

44. No building materials skip bins, concrete pumps, cranes, machinery, temporary traffic control, signs or vehicles associated with the construction, excavation or demolition shall be stored or placed on/in Council's footpath, nature strip, roadway, park or reserve without the prior approval being issued by Council under section 138 of the Roads Act 1993.

**Reason:** To ensure pedestrian access.

**PD0006 #Hours of work and noise**

45. All work (excluding demolition which has separate days and hours outlined below) including building, and excavation work; and activities in the vicinity of the site generating noise associated with preparation for the commencement of work (e.g. loading and unloading of goods, transferring of tools, machinery etc.) in connection with the proposed development must only be carried out between the hours of 7.00am and 5.00pm on Monday to Fridays inclusive, and 8.00am to 5.00pm on Saturday. No work is to be carried out on Sunday or public holidays.

Demolition works are restricted to Monday to Friday between the hours of 7.00am to 5.00pm. No demolition works are to be undertaken on Saturdays, Sundays or Public Holidays.

**Reason:** To protect the amenity of the area.

**PD0007 Complaints register**

46. The applicant must record details of all complaints received during the construction period in an up to date complaints register. The register must record, but not necessarily be limited to:
- (a) The date and time of the complaint;
  - (b) The means by which the complaint was made;
  - (c) Any personal details of the complainants that were provided, or if no details were provided, a note to that effect;
  - (d) Nature of the complaints;
  - (e) Any action(s) taken by the applicant in relation to the complaint, including any follow up contact with the complaint; and
  - (f) If no action was taken by the applicant in relation to the complaint, the reason(s) why no action was taken.

The complaints register must be made available to Council and/or the Principal Certifying Authority upon request.

**Reason:** To allow the Principal Certifying Authority/Council to respond to concerns raised by the public.

#### **PD0008 Noise**

47. Noise emissions and vibration must be minimised, work is to be carried out in accordance with the NSW Department of Environment, Climate Change and Water's Interim Noise Construction Guidelines 2009 for noise emissions from demolition, excavation and construction activities.

Vibration levels resulting from demolition and excavation activities must not exceed 5mm/sec peak particle velocity (PPV) when measured at the footing of any nearby building.

**Reason:** To protect the amenity of the area.

### **Prior to the issue of an Occupation Certificate**

#### **PE0001 Occupation Certificate**

48. Occupation or use of the building or part is not permitted until an Occupation Certificate has been issued in accordance with Section 109H of the Environmental Planning and Assessment Act 1979.

**Reason:** To comply with legislative requirements of the Environmental Planning and Assessment Act 1979.

#### **BE0001 Record of inspections carried out**

49. In accordance with Clause 162B of the Environmental Planning and Assessment Regulation 2000, the Principal Certifying Authority responsible for the critical stage inspections must make a record of each inspection as soon as practicable after it has been carried out. The record must include:
- (a) The development application and Construction Certificate number as registered;
  - (b) The address of the property at which the inspection was carried out;

- (c) The type of inspection;
- (d) The date on which it was carried out;
- (e) The name and accreditation number of the certifying authority by whom the inspection was carried out; and
- (f) Whether or not the inspection was satisfactory in the opinion of the certifying authority who carried it out.

**Reason:** To comply with statutory requirements.

**PENSC Non-standard - Prior to issue of Occ/Sub Cert.**

50. The provision for new water, electricity and gas shall comply with section 4.1.3 of 'Planning for Bush Fire Protection 2006'.

**Reason:** To provide adequate services of water for the protection of buildings during and after the passage of a bush fire, and to locate gas and electricity so as not to contribute to the risk of fire to a building.

**PENSC Non-standard - Prior to issue of Occ/Sub Cert.**

51. An Emergency /Evacuation Plan is to be prepared consistent with the NSW Rural Fire Service document 'Guidelines for the Preparation of Emergency/Evacuation plan'.

**Reason:** The intent of measures is to provide suitable emergency and evacuation (and relocation) arrangements for occupants of special fire protection purpose developments.

**PENSC Non-standard - Prior to issue of Occ/Sub Cert.**

52. New construction of the exposed elevations on the northern, eastern and southern aspect and new roof of the proposed works for both the boarding houses shall comply with section 3 and section 7 (BAL 29) Australian Standard AS3959-2009 'Construction of buildings in bush fire-prone areas' or NASH Standard (1.7.14 updated) 'National Standard Steel Framed Construction in Bushfire Areas - 2014' as appropriate and section A3.7 Addendum Appendix 3 of 'Planning for Bush Fire Protection' 2006'.

**Reason:** To ensure that buildings are designed and constructed to withstand the potential impacts of bush fire attack.

**PENSC Non-standard - Prior to issue of Occ/Sub Cert.**

53. New construction of the shielded elevations and elevations on the western aspect of the proposed works for both the boarding houses shall comply with section 3 and section 6 (BAL 19) Australian Standard AS3959-2009 'Construction of buildings in bush fire-prone area' or NASH Standard (1.7.14 updated) 'National Standard Steel Framed Construction in Bushfire Areas - 2014' as appropriate and section A3.7 Addendum Appendix 3 of 'Planning for Bush Fire Protection' 2006'.

**Reason:** To ensure that buildings are designed and constructed to withstand the potential impacts of bush fire attack.

**PENSC Non-standard - Prior to issue of Occ/Sub Cert.**

54. Prior to the issue of a final Occupation Certificate, a Positive Covenant and Restriction on the Use of Land shall be created in a Section 88B Instrument on land identified by NSW Rural Fire Service for the purposes of bushfire hazard protection zone as follows:
- Northern and north-eastern aspects of the Hake Harris House for a distance of 18 metres as an asset protection zone (inner protection area);
  - Northern aspect of the Macarthur House for a distance of 18 metres as an asset protection zone (inner protection area); and
  - North-eastern and eastern aspects of the Macarthur House for a distance of 49 metres. East to south for a distance of 39 metres as an asset protection zone (inner protection area).

Where a title already exists, the Positive Covenant and the Restriction on the use of Land is to be created via an application to the Land Titles Office using forms 13PC and 13RPA.

The relative bushfire hazard protection zone as it relates to the building footprint must be shown to scale in plan form or a works as executed plan if the work is completed is required to accompany 13PC and 13RPA forms.

Registered title documents showing the covenants and restrictions must be submitted to and approved by the Principal Certifying Authority prior to the issue of the final Occupation Certificate.

**Reason:** To comply with Section 100B of Rural Fires Act 1997.

## **The Use of the Site**

### **EWF0005 Management of waste storage facilities**

55. All waste storage areas are to be maintained in a clean and tidy condition at all times.

**Reason:** To ensure the ongoing management of waste storage areas.

### **EWF0006 Storage of bins between collection periods**

56. Between collection periods, all waste/recyclable materials generated on site must be kept in enclosed bins with securely fitting lids so the contents are not able to leak or overflow. Bins must be stored in the designated waste/recycling storage room(s) or area(s) between collection periods.

**Reason:** To ensure waste is adequately stored within the premises.

### **EWF0003 Remove putrescible waste at sufficient frequency**

57. All putrescible waste shall be removed from the site with sufficient frequency to avoid nuisance from pests and odours.

**Reason:** To ensure provision of adequate waste disposal arrangements.

**PF0004 External Plant/Air-conditioning noise levels**

58. Any external plant/air-conditioning system must not exceed a noise level of 5dBA above the background noise level when measured at the boundaries of the property.

**Reason:** To minimise noise impact of mechanical equipment.

**PF0049 Graffiti Management**

59. The owner/manager of the site/business is responsible for the removal of all graffiti from the building/structures/signage and/or fencing within 48 hours of its application.

**Reason:** To ensure the removal of graffiti.

**Advisory Note**

- The applicant is advised that the property contains 'Native Vegetation' and/or is identified on the NSW Office of Environment and Heritage 'Sensitive Biodiversity Values Map'. This Act prohibits the clearing of native vegetation or high biodiversity value vegetation without the approval of the 'NSW Office of Environment and Heritage', where such activities are not authorised by a development consent under the *Environmental Planning and Assessment Act 1979*. Actions such as tree removal, understory slashing or mowing, or removal of dead trees within this vegetation would likely impact upon this high biodiversity value vegetation. Such actions would qualify as illegally picking or disturbing habitat and could render any person who carried out such an action as LIABLE FOR PROSECUTION.

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**Date:** 29 March 2018

**Responsible Officer:** Sohini Sen

## **CLAUSE 4.6 STATEMENT**

**1. What is the name of the environmental planning instrument that applies to the land?**

The Hills Local Environmental Plan 2012.

**2. What is the zoning of the land?**

SP2 Special Infrastructure – Educational Establishment.

**3. What are the objectives of the zone?**

To provide for infrastructure and related uses and to prevent development that is not compatible or that may detract from the provision of infrastructure.

**4. What is the development standard being varied? e.g. FSR, height, lot size**

Building Height.

**5. Under what clause is the development standard listed in the environmental planning instrument?**

4.3 Height of Buildings.

**6. What are the objectives of the development standard?**

To ensure that the height of buildings is compatible with that of adjoining development and overall street scape and to minimise the impact of overshadowing, visual impact and loss of privacy on adjoining properties and open space areas.

**7. What is the numeric value of the development standard in the environmental planning instrument?**

9 metres.

**8. What is proposed numeric value of the development standard in your development application?**

9.1 metres.

**9. What is the percentage variation (between your proposal and the environmental planning instrument)?**

1.1%.

**10. How is strict compliance with the development standard unreasonable or unnecessary in this particular case?**

This is a minimal difference due to the incorporation of a new roof over the existing 2 story buildings. This brings this refurbishment to match the architectural language of the new building in the school. Thus these 2 day boy houses will become part of a visually cohesive group of modern school buildings.

**11. How would strict compliance hinder the attainment of the objects specified in Section 5(a)(i) and (ii) of the Act.**

Strict compliance would prevent the promotion or coordination of the orderly and economic use and development of the land. E.g. Strict compliance would result in an inconsistent built form which is contrary to the overall masterplan for the development of the site and would therefore not promote orderly development of the land.

**12. Is the development standard a performance based control? Give details.**

No.

**Additional matters to address**

*As outlined in "Varying Development Standards: A Guide" there are other additional matters that applicants should address when applying to vary a development standard.*

**13. Would strict compliance with the standard, in your particular case, would be unreasonable or unnecessary? Why?**

The maximum height of the proposed additions to the building is 9.1m, which is the approximate height from ground to the ridge of the proposed central roof element. The change in height (some 0.1m higher than the tallest point of the existing building) and resulting non-compliance is due to the greater roof pitch over the proposed building to match roofs elsewhere in the school and specifically Kurrle Wickham day boy houses. This is in order to keep the architectural language of the school consistent and in line with the principles of the established school masterplan.

**14. Are there sufficient environmental planning grounds to justify contravening the development standard? Give details.**

While the height of the proposed building exceeds 9m, the building remains as a 2 storey building and will relate better to the more recent buildings surrounding it, so that it will become part of a visually cohesive group of 'modern' school buildings.

In addition, the siting of the proposed development is approximately 550m from the closest heritage item (the chapel is located to the south) and the proposed development is totally within the Kings School grounds. Therefore, it has minimal adverse impact on any surrounding neighbours or items of heritage.